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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,895	12/29/2005	Wilhelmus Robert Koppers	NL 031034	6921
24737 7590 09/12/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
CHOW, LIXI				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/562,895

**Applicant(s)**

KOPPERS ET AL.

**Examiner**

Lixi Chow

**Art Unit**

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/17/08 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the base claims recite "dividing data content to be recorded on the recordable multi-layer record carrier into data blocks". However, nowhere in the specification describes that data content are divided into data blocks. The specification only supports that the data content are evenly divided. Therefore, the above noted limitation is considered a new matter.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuroda (US 6,370,091).

Regarding claim 1:

Kuroda discloses method A method of recording information on a recordable multi-layer record carrier, said record carrier having a plurality of information layers including at least a first information layer and a second information layer for storing information (see Figs. 1 and 2), the method comprising acts of:

dividing data content to be recorded on the recordable multi-layer record carrier into data blocks (see Fig. 1, element 10);

recording the data blocks of the data content on the recordable multi-layer record carrier such that the data content is substantially evenly distributed between each of the plurality of information layers (see Figs. 3A-3C);

wherein the data content is recorded such that a data area containing one or more data blocks of the data content stored on the first information layer and a data area containing one or more data blocks of the data content stored on the second information layer are of substantially equal size and such that both data areas are superjacent (see Figs. 3B, 3C and 5).

Regarding claim 4:

Kuroda discloses a recordable multi-layer record carrier, said record carrier comprising:

a plurality of information layers including at least a first information layer and a second information layer for storing data content divided into data blocks that are recorded on the

recordable multi-layer record carrier such that the data content is substantially evenly distributed between each of the plurality of information layers (see Figs. 3A-3C),

wherein the data content is recorded such that a data area containing one or more data blocks of the data content are stored on the first information layer and a data area containing one or more data blocks of the data content stored on the second information layer are of substantially equal size and such that both data areas are superjacent (see Fig. 5).

Regarding claim 6:

Kuroda discloses the method of claim 1, where dividing the data content comprises an act of dividing the data content into portions of substantially equal size, and wherein recording comprises an act of recording the portions of the data content to the data areas of the plurality of information layers (see Figs. 3A-3C and col. 3, lines 41-65).

Regarding claim 7:

Kuroda discloses the method of claim 6, wherein dividing the data content into portions of substantially equal size comprises an act of dividing the data content based on recording time (since each of the data block requires certain amount of time to record onto the disc, and the amount of data are even divided, then the act of dividing the data content based on recording time is inherently realized).

Regarding claim 8:

Kuroda discloses the method of claim 6, wherein dividing the data content into portions of substantially equal size comprises an act of dividing the data content based on a size of the data content to be recorded (Kuroda inherently divides the data content according to the size of the data content to be recorded).

Regarding claim 9:

Kuroda discloses the method of claim 1, wherein the data content is video data (see col. 2, lines 17-20).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda (US 6,370,091).

Regarding claim 5:

Kuroda discloses all the features in claim 1; however, Kuroda fails to mention whether the method further comprises an act of shifting middle zone areas of at least one of the information layers towards an inner radius of the disc. However, the act of shifting middle zone areas of at least one of the information layers towards the inner radius of the disc depends on how much data is to be recorded on the record carrier. It would have been obvious to one having ordinary skill in the art at the time the invention was made to only record, for example, four data blocks instead of six data blocks to thereby shifting the middle zone area, since it has been held that mere changing the size of a content involves only routine skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claims 10 and 11:

Kuroda discloses the claimed invention except for the data content is audio data or audio/visual data. However, Kuroda discloses that a data content is a video/visual data. It would have been obvious to one having ordinary skill in the art at the time the invention was made to record data content of audio or audio/visual data since the examiner takes Official Notice of the equivalence of video/visual data and audio or audio/visual data for their use in the optical recording/reproducing art and the selection of any of these known equivalents to be recorded onto a record carrier would be within the level of ordinary skill in the art.

8. Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda in view of Tateishi (EP 1204106A2).

Regarding claim 12:

Kuroda discloses a method of recording information on a recordable multi-layer optical disc having a plurality of information layers, the method comprising acts of:

dividing data content to be recorded on the recordable multi-layer record carrier into data blocks (see Figs. 3A-3C); and

recording the data blocks of the data content in data areas of the plurality of information layers such that the data content is substantially evenly distributed between each of the plurality of information layers (see Figs. 3B-3C and Fig. 5),

wherein data area of the plurality of information layers are (i) substantially equal size and (ii) substantially filled with a portion of the recorded data content (see Fig. 5; each of the recording layer includes three data blocks).

Kuroda discloses the claimed invention except that Kuroda fails to mention whether the method further comprises an act of shifting middle zone areas of the plurality of information layers towards an inner radius of the disc. However, the act of shifting middle zone areas of the plurality of information layers towards the inner radius of the disc depends on how much data is to be recorded on the record carrier. It would have been obvious to one having ordinary skill in the art at the time the invention was made to only record, for example, four data blocks instead of six data blocks to thereby shifting the middle zone area, since it has been held that mere changing the size of a content involves only routine skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Kuroda may not disclose that the data area of the plurality of information layers are spatially aligned; but Tateshi discloses a method of recording information on recordable multi-layer optical disc having a plurality of information layers, the method comprises recording data to the plurality of information layers, wherein a data area of the plurality of information layers are spatially aligned (see Fig. 5).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Kuroda to record data onto a plurality of information layers such that the data area of the plurality of information layer are spatially aligned. One of ordinary skill in the art would have been motivated to do this because the data area of the plurality of information layers is efficiently utilized.

Regarding claims 13-18:

Claims 13-18 recite similar limitations as in claims 6-11; hence, they are rejected under the same reasons set forth in claims 6-11.

***Response to Arguments***



9. Applicant's arguments with respect to claims 1 and 4-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lixi Chow whose telephone number is 571-272-7571. The examiner can normally be reached on Mon-Fri, 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TAN Xuan DINH/  
Primary Examiner, Art Unit 2627  
September 11, 2008

/Lixi Chow/  
9/11/08